

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

WILLIAM DAMON AVERY,

Plaintiff,

vs.

CITY OF MILWAUKEE, et.al.,

Defendants.

Case No. 11-CV-408

Milwaukee, Wisconsin

June 11, 2015

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TRANSCRIPT OF TRIAL
BEFORE THE **HONORABLE RUDOLPH T. RANDA,**
UNITED STATES DISTRICT JUDGE, AND A JURY

A P P E A R A N C E S

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REPORTED BY:

HEIDI J. TRAPP
Federal Official Court Reporter
310, U.S. Courthouse
517 East Wisconsin Avenue
Milwaukee, Wisconsin 53202

TRANSCRIPT OF PROCEEDINGS

THE COURT: All right. We have a verdict and we'll bring the jury out here to take the verdict.

(Whereupon the jury was returned to the courtroom at 1:58 p.m.)

THE COURT: Ladies and gentlemen of the jury, have you reached a verdict in this case?

THE JURY: Yes, we have.

THE COURT: Would you hand it to the Bailiff, please. The Court has been handed the verdict. The Court will review the verdict. And the Court will read the verdict.

Did any of the Defendants fabricate evidence that was a cause of the homicide conviction of William Avery? "A", Gilbert Hernandez. Answer: Yes. "B", Daniel Phillips. Answer: Yes. Katherine Hein/Spano. Answer: No. Timothy Heier. Answer: No. Kevin Armbruster. No. James DeValkenaere. No.

If you answered no to all parts of the question, then you need not answer any of the remaining questions. However, if you have answered "yes" to any part of Question Number 1, then answer Question Number 2.

Did any of the Defendants fail to intervene to prevent the use of fabricated evidence? Gilbert Hernandez. Answer: Yes. "B", Daniel Phillips. Answer: Yes. Katherine Hein/Spano. Answer: No. Timothy Heier. Answer: No. Kevin

1 Armbruster. Answer: No. James DeValkenaere. Answer: No.

2 If you answered "yes" to any of the Defendants in
3 questions Number 1 or 2, then answer Question Number 3.

4 Did any of these Defendants conspire to use fabricated
5 evidence that was a cause of the homicide conviction of William
6 Avery? Gilbert Hernandez. Answer: Yes. Daniel Phillips.
7 Answer: Yes. Katherine Hein/Spano. Answer: No. Timothy
8 Heier. Answer: No. Kevin Armbruster. Answer: No. James
9 DeValkenaere. Answer: No.

10 If you answered "yes" to any part of Questions 1, 2 or
11 3, then answer Question 4.

12 Did the City of Milwaukee have a policy, practice, or
13 custom of inadequately investigating homicides at the time in
14 question which led to the fabrication of evidence resulting in
15 the homicide conviction of William Avery? Answer: Yes.

16 If you have answered yes to any of the previous
17 questions, then answer Question Number 5.

18 Question 5: We award the Plaintiff compensatory
19 damages in the amount of \$1 Million.

20 If you answered no to all parts of Questions Numbers
21 1, 2, or 3, then you need not answer Question Number 6.
22 However, if you answered "yes" to any part of question Numbers
23 1, 2, or 3, then answer Question Number 6 as to any Defendant
24 for which you answered "yes".

25 What amount of money, if any, do you award the

1 Plaintiff as punitive damages against the following Defendants.
2 Gilbert Hernandez. Zero. Daniel Phillips. Zero. Katherine
3 Hein/Spano. Zero. Timothy Heier. Zero. Kevin Armbruster.
4 Zero. James DeValkenaere. Zero. Dated at Milwaukee,
5 Wisconsin, this 11th day of June, 2015. Signed by the
6 foreperson, Mark (redacted). That's your signature there,
7 Mr. (Redacted)?

8 THE FOREPERSON: Yes, it is.

9 THE COURT: Okay. Well, the Court will enter Judgment
10 on the verdict subject to any post-trial motions. Ladies and
11 gentlemen of the jury, your obligations as jurors in this case
12 are over. So remember throughout the trial I told you you can't
13 talk about this case with anyone? Well, now you can talk to
14 anyone you want about the case. If you want. Now, if you don't
15 want to do it, then you don't have to do it. It's not your
16 obligation. But it's your freedom to talk if you wish to talk
17 to someone about it. And if you don't want to talk about it,
18 and someone insists on talking to you, you just have them call
19 me and ask permission. They'll find out what the deal is.

20 But you're excused. Perhaps we'll see you again in
21 the future when you're called again for jury service. I didn't
22 see too many smiles over that proposition. But it could happen.
23 So you're excused. Have a good weekend, okay? Thank you for
24 your service.

25 (Whereupon the jury was dismissed at 2:02 p.m.)

1 THE COURT: All right. The Court has entered judgment
2 on the verdict form. Is there any question as to the verdict at
3 this point?

4 MR. STAINTHORP: None from the Plaintiff, Judge.

5 MR. SMOKOWICZ: Not for the Defendants, Your Honor.

6 THE COURT: Okay. Then anything else to come before
7 the Court on this case at this time?

8 MR. SMOKOWICZ: Not at this time, Your Honor.

9 THE COURT: All right. Thank you very much.

10 MR. STAINTHORP: Judge, we appreciate the --

11 THE COURT: Are you guys familiar with the Stockholm
12 syndrome? I'm going to miss you. All right. Have a good
13 evening.

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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF WISCONSIN
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4 I, HEIDI J. TRAPP, Official Court Reporter for the
5 United States District Court, Eastern District of Wisconsin, do
6 hereby certify that I reported the foregoing Transcript of
7 Proceedings; that the same is true and correct as reflected by
8 my original machine shorthand notes taken at said time and place
9 before the Hon. Rudolph T. Randa.
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Official Court Reporter
United States District Court
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14 Dated at Milwaukee, Wisconsin,
15 this 30th day of November, 2015.
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